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CONSTITUTIONAL LAW—CO-ORDINATE BRANCHES OF GOVERNMENT—POWER OF PROBATE COURT TO DIRECT MODE IN WHICH TELEPHONE COMPANIES MAY USE STREETS.—CITY OF ZANESVILLE v. ZANESVILLE TELEPHONE AND TELEGRAPH CO., 59 N. E. Rep. 109 (Ohio).—Sec. 3461, Rev. St., requires probate courts to direct the mode in which a telephone or telegraph company may use the streets of a city, when the municipal authorities and the company are unable to agree. *Held*, unconstitutional.

This case illustrates the persistency with which the law keeps distinct and independent the executive, legislative and judicial branches of the government. *Appeal of Norwalk St. Ry. Co.*, 38 Atl. Rep. 708; *Hayburn's Case*, 2 Dall. 409. It is often difficult to distinguish legislative from judicial powers. A judicial act is a determination of what the existing law is, in relation to something already done, while a legislative act is a pre-determination of what the law shall be, for the regulation of future cases. *Cooley, Const. Lim.*, p. 108. In the light of the above distinction, the legislative character of the power given by the above statute becomes manifest.

CORPORATIONS—ULTRA VIRES—ADVERTISING GOODS.—VIRGIL v. VIRGIL PRACTICE CLAVIER CO., 68 N. Y. Supp. 355.—A corporation organized for the manufacture and sale of instruments designed for practice and instruction in piano playing is not acting *ultra vires* when, in order to overcome the prejudice to a toneless instrument and to bring the invention to public notice, the corporation as a part of its general scheme maintains a piano school, the result of which is an increase in the monthly sales.

This case is in line with other recent decisions which go to broaden the field of implied powers of private corporations. The cases of *Steinway* v. *Steinway & Sons*, 40 N. Y. Supp. 718, and *Holm* v. *Brewing Co.*, 47 N. Y. Supp. 518, go farther than the case at bar. The modernized doctrine is well stated in *Koehler* v. *Reinheimer*, 49 N. Y. Supp. 755, where it is said: "So far as the people are concerned, whether a corporation shall make one contract or another, so long as it advances the purposes for which the corporation was organized, is absolutely unimportant; and so the rule has come to be laid down that, except as restrained by law, trading corporations have the implied power to make all such contracts as will further the objects of their creation, and their dealings in this regard may be likened to those of an individual seeking to accomplish the same ends."

COUNTERFEITING—FORMER CONVICTION—DISTINCT OFFENSE.—BLISS v. UNITED STATES, 105 Fed. 508.—*Held*, counterfeiting of notes at different times of the same series and from the same plate constitute distinct offences and a conviction for one is no bar to a prosecution for the others.

This decision doubtless has good support. *United States* v. *Rodenbush*, 8 Pet. 288. But the question is not so clearly settled as is indicated by this case. *Commonwealth* v. *Connors*, 116 Mass. 35, gives no support to the view that separate issues from the same series, running through a past period of time, may be divided into parts and called separate offences. A contrary view was held in *Bronch Sons Co.* v. *Palmer*, 65 Ga. 210.

DEATH OF MINOR CHILD—RECOVERY BY PARENT—EXTENT OF DAMAGES.—BEARMAN v. MARTHA WASHINGTON MIN. CO., 63 Pac. Rep: 631 (Utah).—In an action by a father for the negligent killing of his minor child, the recovery is not limited to the deprivation of the society, comfort and services of the child during his minority, but damages may be recovered for benefits expected after his majority.

The common law limited such recovery to the period of the child's minority, but this law has been largely changed in many of the States by statutes and decisions. The courts differ widely as to the measure of such damages. It is generally held that to recover damages beyond the period of the child's minority, it must be shown that the parent is liable to be dependent and that the minor had an intent to assist the parent after attaining his majority. *Thompson* v. *Johnston Bros.*, 86 Wis. 576; *Ry. Co.* v. *Davis*, 55 Ark. 462; *Ry. Co.* v. *Compton*, 75 Tex. 667.

DEFENCE OF DWELLING HOUSE — STEAM LAUNCH WITH NO SLEEPING APARTMENTS IS NOT A DWELLING.—PEOPLE V. BERNARD, 84 N. W. 1092 (Mich.).—Defendant owned a small steam launch which he used as a public conveyance. It had no sleeping or living apartments, but was moored to the dock and used as a sleeping berth by the owner. *Held*, that it was not a house or castle which might be defended against entry by an officer, to the extent of taking his life.

To render a building a dwelling house, it must be a habitation for man, and usually occupied by some person, lodging in it at night. *Scott* v. *State*, 62 Miss. 782.

ELECTIONS — BALLOTS — LACK OF CERTIFICATE ON BACK—VALIDITY.—O'CONNELL V. MATTHEWS ET AL, 59 N. E. Rep. 195 (Mass.).—Under a statute forbidding the deposit in the ballot-box of official ballots unless certified by the city clerk, the petitioner asks for a mandamus to compel the rejection of such ballots. *Held*, that the provisions of the statute forbidding the deposit of such ballots does not forbid the counting of such ballots after their deposit.

The question involved is as to whether the provision of the statute is to be considered as mandatory or directory. In general, the provisions of the Australian ballot law are construed as mandatory. This decision, if generally followed, would practically destroy the efficiency of the Australian system.

ELECTRIC CONDUITS IN STREETS—NEW SERVITUDE—COMPENSATION.—COBURN V. NEW TELEPHONE CO., 59 N. E. 324 (Ind.).—*Held*, the construction of a sub-surface trench in sidewalk, three feet from abutter's lot line, for a conduit for telephone wires, is not a new servitude, entitling the abutter to compensation.

Whether such an occupation of the street is a new use inconsistent with the contemplated purpose of dedication, and therefore an additional servitude, or an improved method of devoting the street to its original purpose, is a question that has caused a wide divergence of opinion among text-writers and courts. *Lewis on Eminent Domain*, Sec. 131; 2 *Dillon Mun. Corp.*, Sec. 698a. The Wisconsin court, in a recent decision, in which all the authorities are reviewed, declares the weight of judicial opinion to be in favor of the former view. *Krueger* v. *Telephone Co.*, 81 N. W. 1041, *and cases cited.* The latter view, however, is also supported by the courts of many States. *Pierce* v. *Drew*, 136 Mass. 75; *People* v. *Eaton*, 59 N. W. 145; *Magee* v. *Overshiner*, 49 N. E. 951; *Julia Building Assn.* v. *Bell Tel. Co.*, 13 Mo. App. 477. The decision in the case at bar is consistent with the previous adjudications of the same Court. *Magee* v. *Overshiner, supra.*

ESTATES IN EXPECTANCY—ASSIGNMENT—VALIDITY.—FULLER V. PARMENTER, 47 Atl. 1079 (Vt.).—Where son assigned expectancy in father's estate and it appeared that father had notice and did not object, *held*, his assent was unnecessary.